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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,098	10/19/2001	Guy Goldstein	MERCURY.140A1	5353
20995	7590	07/19/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			ALAM, UZMA	
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/038,098	GOLDSTEIN ET AL.
	Examiner Uzma Alam	Art Unit 2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 October 2001.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-34 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-34 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 19 January 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 11/05

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

This action is responsive to the application filed on 10/19/2001. Claims 1-34 are pending. Claims 1-34 represent a method for monitoring response times on a network and a server.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Curley et al. US Patent Publication No. 2002/0120727. Curley teaches the invention as claimed including a method for monitoring the performance of a network, a server, and a client (see abstract).

As per claim 1, Curley teaches the method for monitoring performance of a transactional server as seen by end-users of the transactional server, the method comprising:

executing a transaction between an agent running on a client computer at a remote end-user location and a transactional server, wherein the transaction includes a sequence of uniform resource locator (URL) requests transmitted from the agent to the transactional server over a network (sending a request from a client to a server; (sending a TCP request from the client to the server, and measuring different parameters of time it takes to fulfill the request; paragraphs 0135-0138, 0146-0148);

measuring time durations between predefined events that occur during execution of the transaction, the measurements being made by the agent (timing different parameters of the network, the server, and the client by the software; paragraph 0151-0163, 0167-0168);

using the measured time durations to automatically calculate at least a network time representing an amount of time attributable to the network and a server time representing an amount of time attributable to the transactional server (measuring different parameters of time spent on the network and the server when a request is placed; paragraph 0136, 0144, 0151-0163, 0167, 0168, also see the Table)

displaying a break down of time involved in completion of the transaction into multiple components, including at least said network time and said server time (generating a report on all measurements with breakdowns of each parameter; paragraph 0137).

As per claim 2, Curley teaches the method of claim 1 wherein measuring time durations between predefined events includes measuring a domain name system (DNS) lookup time (paragraph 0240).

As per claim 3, Curley teaches the method of claim 1, wherein measuring time durations between predefined events includes measuring a time required to establish an initial connection between the agent and the transactional server (initial server time; paragraph 0164, 0167, 0170-0715, 0195).

As per claim 4, Curley teaches the method of claim 1, wherein measuring time durations between predefined events includes measuring a time duration between the agent sending a first uniform resource locator (URL) request and receiving an acknowledgement from the transactional server for the first URL request (measuring time to receive first ACK; paragraph 0165, 0170-0175, 0195).

As per claim 5, Curley teaches the method of claim 1, wherein measuring time durations between predefined events includes measuring a time duration between the agent receiving an acknowledgement from the transactional server for the first URL request of the transaction and the agent receiving a first buffer of data (paragraph 0165, 0181-0189, 0201).

As per claim 6, Curley teaches the method of claim 1, wherein measuring time durations between predefined events includes measuring a time duration between the agent receiving a first buffer of data from the transactional server and the agent receiving a last buffer of data from the transactional server (paragraph 0181-0192).

As per claim 7, Curley teaches the method of claim 1 wherein measuring time durations between predefined events includes measuring a time spent by the agent processing the transaction on the client (paragraph 0178-0180).

As per claim 8, Curley teaches the method of claim 1 wherein displaying a break down of time includes displaying an amount of time spent in resolving a domain name for the

transactional server into an internet protocol address for the transactional server (paragraph 0240).

As per claim 9, Curley teaches the method of claim 1, wherein displaying a break down of time includes displaying an amount of time spent in establishing an initial connection between the client computer and the transactional server (paragraph 0014, 0017, 0028)

As per claim 10, Curley teaches the method of claim 1 wherein displaying a break down of time includes displaying an amount of time spent by the agent processing a transaction on the client computer (paragraph 0014, 0017-0028).

As per claim 11, Curley teaches the method of claim 1, wherein displaying a break down of time includes displaying at least one of the following: a DNS resolution time, a connection time, a client time, a server/network overlap time (paragraph 0014, 0017-0028, 0158-0161, 0240).

As per claim 12, Curley teaches the method of claim 1, further comprising: executing the transaction from each of a plurality of geographically distributed locations (paragraph 0136, 0246-0256); and

displaying a break down of at least network time and server time for the transaction from each of the plurality of locations, whereby an administrative user of the transactional server may compare the network and server times for the transaction as seen by end users in each of the

plurality of locations (paragraph 0136, 0246-0256).

As per claim 13, Curley teaches a system for monitoring performance of a transactional server as seen from an end user location, the system comprising:

an agent component that communicates with the transactional server over a network to execute a transaction, and measures time periods between predefined events that occur during execution of the transaction (sending a TCP request from the client to the server, and measuring different parameters of time it takes to fulfill the request; paragraphs 0135-0138, 0146-0148; 0151-0163, 0167-0168); and

a report generation component that generates a transaction breakdown display based on the time periods measured by the agent component, the transaction breakdown display indicating a breakdown of a total transaction response time into multiple components (generating a report on all measurements with breakdowns of each parameter; paragraph 0137).

As per claim 14, Curley teaches the system of claim 13, wherein the multiple components include a network time representing an amount of said total transaction response time that is attributable to the network, and a server time representing an amount of said total transaction response time that is attributable to the transactional server (measuring different parameters of time spent on the network and the server when a request is place; paragraph 0136, 0144, 0151-0163, 0167, 0168, also see the Table).

As per claim 15, Curley teaches the system of claim 14 wherein the multiple components further include a client time (paragraph 0178-0180).

As per claim 16, Curley teaches the system of claim 15. Curley does not teach wherein the multiple components further include a connection time and a DNS resolution time (paragraph 0240).

As per claim 17, Curley teaches the system of claim 15 wherein the multiple components further include a server/network overlap time (paragraph 0228-0232).

As per claim 18, Curley teaches the system of claim 13, wherein the transaction comprises multiple uniform resource locator requests (paragraph 0139).

As per claim 19, Curley teaches system of claim 13, wherein the agent measures a time taken to establish an initial connection with the transactional server (paragraph 0164, 0167, 0170-0175, 0198).

As per claim 20, Curley teaches the system of claim 13, wherein the agent measures a time duration between the agent sending a first uniform resource locator (URL) request and receiving an acknowledgement from the transactional server for the first URL request (paragraph 0165, 0170-0175, 0195).

As per claim 21, Curley teaches the system of claim 13, wherein the agent measures a time duration between the agent receiving an acknowledgement from the transactional server for a first uniform resource locator (URL) request of the transaction and the agent receiving a first buffer of data (paragraph 0165, 0181-0189, 0201).

As per claim 22, Curley teaches the system of claim 13, wherein the agent measures a time duration between the agent receiving a first buffer of data from the transactional server and the agent receiving a last buffer of data from the transactional server (paragraph 0181-0192).

As per claim 23, Curley teaches the system of claim 13 wherein the agent measures a time spent by the agent processing the transaction on the client (paragraph 0178-0180).

As per claim 24, Curley discloses the system of claim 13 further comprising a component that analyzes data collected by the agent component to identify correlations in time between degradations in transaction response times and degradations in the components of such transaction response times, to thereby facilitate identification of causes of end user performance problems (paragraph 0133, 0140, 0163, 0215, 0232, 0252, 0256).

As per claim 25, Curley teaches the method for monitoring performance of a server system, the method comprising:

receiving data from a plurality of computers in a plurality of geographic locations indicating time spent by a server in processing transaction requests from each of the plurality of computers (0136, 0246-0251);

receiving data from the plurality of computers indicating time spent by a network in processing the transaction requests (timing different parameters of the network, the server, and the client by the software; paragraph 0136, 0144, 0151-0163, 0167-0168);

generating a report page with graphical representations of the time spent by the server and the time spent by the network for each of the plurality of geographic locations to facilitate a determination of whether network and server delays are location dependent ; wherein said time spent by the server and said time spent by the network are measure via agent software executed by said plurality of computers (generating a report on all measurements with breakdowns of each parameter; paragraph 0137, 0246-0252).

As per claim 26, Curley teaches the method of claim 25, further comprising receiving data from the plurality of computers indicative of, and displaying representations of, at least one of the following: client time, DNS resolution time, connection time, and server/network overlap time (paragraph 0014, 0017-0028, 0158-0161).

As per claim 27, Curley teaches the method of monitoring performance of a transactional server as seen from a remote user location, the method comprising:

executing a transaction between a client computer in the remote user location and the transactional server, wherein the transaction comprises a sequence of URL requests passed from

the client computer to the transactional server over a computer network (sending a TCP request from the client to the server, and measuring different parameters of time it takes to fulfill the request; paragraphs 0135-0138, 0146-0148; 0151-0163, 0167-0168);

on the client computer, measuring time durations between predefined events that occur during execution of the transaction (timing different parameters of the network, the server, and the client by the software; paragraph 0136, 0144, 0151-0163, 0167-0168); and

based on the time durations as measured by the client computer, breaking down a total execution time of the transaction into multiple components, including at least a network time and a server time (measuring different parameters of time spent on the network and the server when a request is place; paragraph 0136, 0144, 0151-0163, 0167, 0168, also see the Table)

As per claim 28, Curley teaches the method of claim 27, wherein the network time represents an amount of said total execution time that is attributable to the computer network and the server time represents an amount of said total execution time that is attributable to the transaction server (measuring different parameters of time spent on the network and the server when a request is place; paragraph 0136, 0144, 0151-0163, 0167, 0168, also see the Table).

As per claim 29, Curley teaches the method of claim 27 further comprising generating a display which graphically breaks down the total execution time of the transaction into multiple components (generating a report on all measurements with breakdowns of each parameter; paragraph 0137).

As per claim 30, Curley teaches the method of claim 27 further comprising calculating the network time by summing multiple constituent time durations measured on the client computer (paragraph 0163, 0215).

As per claim 31, Curley teaches the method of claim 27 wherein the method is performed by execution of agent software on the client computer (paragraph 0135-0138, 0146-0148).

As per claim 32, Curley teaches a computer readable medium having stored thereon a computer program which embodies the method of claim 27 (paragraph 0137)

As per claim 33, Curley teaches the method of claim 1 wherein using the measured time durations to calculate the network time and the server time comprises averaging measured time durations from multiple executions of the transaction, such that the network and server time represent averages (paragraph 0211-0212).

As per claim 34, Curley teaches the system of claim 13, wherein the transaction breakdown display indicates average time durations of each of the components (paragraph 0140, 0211, 0212).

Response to Arguments

2. Applicant's arguments with respect to claims 1, 13, 25 and 27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uzma Alam whose telephone number is (571) 272-3995. The examiner can normally be reached on Monday-Tuesday 9 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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